

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JEROME BASIM MANNAN,

Case No. C07-545-MJP-MJB

Petitioner,

ORDER OF DISMISSAL

v.

JOHN W. GAY,

Respondent.

The Court, having reviewed the Amended Petition for Writ of Habeas Corpus, (Dkt. No. 8), Respondent's Answer (Dkt. No. 15), Petitioner's Reply (Dkt. No. 19), the Report and Recommendation of the Honorable Monica J. Benton, United States Magistrate Judge, (Dkt. No. 21), and the remaining record, does hereby adopt the Report and Recommendation of Magistrate Judge Benton. The Court's reasoning is set forth below.

Discussion

Under 28 U.S.C. § 2254(d), a habeas petition may be granted to any claim adjudicated on the merits in state court only if the state court's decision was contrary to or involved an unreasonable application of clearly established federal law as determined by the Supreme Court, or if the decision was based on an unreasonable determination of facts in light of the evidence presented. Petitioner argues that the state court exceeded the statutory maximum for sentencing when it imposed an 18-36 month condition of community custody in addition to 168 months of total confinement, where the top of the sentencing range for first degree robbery with 9 points is 171 months. See RCW 9.94A.510. Petitioner argues that the Supreme Court has ruled that the relevant "statutory maximum" range is the top of the standard sentencing range, and not the

1 The Clerk is directed to send copies of this Order to all counsel of record, Judge Benton,
2 and a copy by mail to Petitioner.

3 DATED: ____April 28_____, 2008.

4 _____s/Marsha J. Pechman_____

5 Marsha J. Pechman

6 United States District Judge
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